

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CRIMINAL DOCKET NO.: 3:95CR119-V**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
<b>vs.</b>	)	<b><u>ORDER</u></b>
	)	
<b>GERALD DAMONE HOPPER,</b>	)	
<b>Defendant.</b>	)	
_____	)	

**THIS MATTER** is before the Court on its own motion after granting relief to Defendant Hopper pursuant to 18 U.S.C. §3582(c)(2). (Document #189) Defendant's Motion To Modify was filed in response to Amendment 599 of the United States Sentencing Guidelines. (Documents #184, #187) The Government agreed that Defendant was entitled to relief. (Document #186)

In the Court's October 28, 2005 Order granting Defendant's Section 3582(c)(2) motion, the U.S. Probation Department, along with the Clerk's Office, was asked to prepare a proposed amended judgment and submit the amended judgment to the undersigned for review.<sup>1</sup> The Court asked for input from the U.S. Probation Department to ensure that application of Amendment 599, and recalculation of Defendant's sentence, did not trigger any other adjustments to Defendant's guidelines sentence. According to U.S. Probation, notwithstanding retroactive application of Amendment 599, Defendant's sentence remains

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<sup>1</sup> The Order provided a deadline of November 18, 2005. However, the Court is advised that U.S. Probation never received the Court's October 28, 2005 Order and did not learn of this request until chambers' staff inquired.

unchanged because Defendant was deemed an armed career criminal.<sup>2</sup> Defendant is not entitled to any reduction of sentence.

**IT IS, THEREFORE, ORDERED THAT:**

- 1) The Court's October 28, 2005 Order is **AMENDED** to reflect that Defendant's Motion To Modify is only **GRANTED in part**. While Defendant is entitled to the benefit of retroactive application of Amendment 599, this adjustment has no effect on Defendant's actual guidelines sentence given his status as a career offender. Therefore, there is no need to prepare an Amended Judgment.
- 2) The Deputy Clerk shall forward a copy of the instant Order to the Defendant, U.S. Attorney's Office, U.S. Probation Department, U.S. Marshal's Service, and Bureau of Prisons.

Signed: March 20, 2006



Richard L. Voorhees  
Chief United States District Judge



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<sup>2</sup> In responding to Defendant's objections to the Presentence Report, Senior U.S. Probation Officer Beverly L. Morgan explained:

"Objections concerning the issue[] of . . . stolen firearms would not impact the overall offense level, since the defendant is an armed career criminal."

(8-5-96 Addendum To PSR, at 25.)

